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Attorney for Plaintiff,
HILARIO MARTINEZ

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HILARIO MARTINEZ,

Plaintiff,

v.

CITY OF PITTSBURG;
CITY OF PITTSBURG POLICE DEPARTMENT;
DANIEL BUCK, individually and as an Officer of
the CITY OF PITTSBURG POLICE
DEPARTMENT (Badge #293);
CHUNLIAM SAECHAO, individually and as an
Officer of the CITY OF PITTSBURG POLICE
DEPARTMENT (Badge #288);
RYAN WILKIE, individually and as an Officer of
the CITY OF PITTSBURG POLICE
DEPARTMENT (Badge #265);
BRIAN SCOTT, individually and as an Officer of
the CITY OF PITTSBURG POLICE
DEPARTMENT (Badge #292); and
DOES 1 – 100, inclusive,

Defendants.

Case No.: C11-01017 SBA

STIPULATION OF DISMISSAL
AND ~~PROPOSED~~ ORDER
THEREON

F.R.C.P. 41

IT IS HEREBY STIPULATED by and between the parties to this action, through their designated counsel, that Defendant RYAN WILKIE be and hereby is dismissed with prejudice pursuant to F.R.C.P. 41(a)(1).

IT IS FURTHER STIPULATED that Defendant BRIAN SCOTT be and hereby is dismissed without prejudice. The parties agree that Defendant BRIAN SCOTT can be re-named as a Defendant in this action should discovery justify re-naming Officer SCOTT in Plaintiff's

counsel's opinion. It is further agreed that, while Defendants will not oppose re-naming BRIAN SCOTT as a Defendant in this litigation, should BRIAN SCOTT be re-named in this litigation, he will have all defenses he had as of the time of the filing of his Answer including all rights he had and/or has for his dismissal based on the law and/or the facts of this particular matter.

It is also agreed that should Plaintiff need/want the presence of either Officer SCOTT or Officer WILKIE at Trial, they will appear without the need to either serve them with a subpoena and/or the payment of a witness fee.

Dated: March 2, 2012

LAW OFFICES OF PANOS LAGOS

/s/

Panos Lagos, Esq.
Attorney for Plaintiff,
HILARIO MARTINEZ

Dated: March 2, 2012

EDRINGTON, SCHIRMER & MURPHY

/s/

James M. Marzan
Attorney for Defendants
CITY OF PITTSBURG, CITY OF
PITTSBURG POLICE DEPARTMENT,
DANIEL BUCK, CHUNLIAM SAECHAO,
RYAN WILKIE and BRIAN SCOTT

ORDER

In accordance with the foregoing stipulation, IT IS HEREBY ORDERED that Defendant RYAN WILKIE is hereby dismissed from this action with prejudice. IT IS FURTHER ORDERED that Defendant BRIAN SCOTT is hereby dismissed from this action without prejudice. Each party shall bear its own attorneys' fees and costs.

Dated: 3/6/12


HON. SAUNDRA BROWN ARMSTRONG
United States District Court Judge

ATTESTATION PURSUANT TO GENERAL ORDER 45.X.B.

I, Panos Lagos, declare and attest that concurrence in the electronic filing of this document has been obtained from each of the signatories.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and corrected.

Executed this 2nd day of March, 2012, at Oakland, Alameda County, California.

/s/
Panos Lagos, Declarant